

LAND USE ADMINISTRATION IN UKRAINE: RESTRICTIONS AND ZONING REGULATIONS

ZARZĄDZANIE UŻYTKOWANIEM GRUNTÓW NA UKRAINIE: OGRANICZENIA I PRAWNE REGULACJE PODZIAŁU NA STREFY

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Abstract. The aim of this article is to present an overview of the Ukrainian legislation on land-use restrictions and zoning regulation. The first part focuses on general law issues concerning land-use restrictions. The second part discusses different types of land-use restrictions according to special law regulation. The third part of the article focuses on legislation concerning certain types of land-use restrictions based on planning decisions, including land-use zoning and land development.

Streszczenie. Celem artykułu jest przedstawienie ogólnego zarysu ukraińskiego ustawodawstwa dotyczącego ograniczeń użytkowania gruntów oraz prawnych regulacji podziału na strefy. Pierwsza część skupia się na ogólnych kwestiach prawnych dotyczących ograniczeń użytkowania gruntów. Druga część omawia różne rodzaje ograniczeń użytkowania gruntów zgodnie ze specjalnymi regulacjami prawnymi. Trzecia część artykułu skupia się na ustawodawstwie dotyczącym określonych rodzajów ograniczeń użytkowania gruntów w oparciu o decyzje planistyczne obejmujące podział na strefy użytkowania gruntów oraz rozwój gruntów.

Key words: land-use restrictions, zoning regulation, land development, standardization, norming of land use.

Słowa kluczowe: ograniczenia użytkowania gruntów, prawne regulacje podziału na strefy, rozwój gruntów, standaryzacja, normowanie użytkowania gruntów

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INTRODUCTION

Land is the basis of human society because it provides food, water, energy, clothing and shelter. Land resources, however, are finite and becoming scarce in Ukraine and elsewhere. Problems of inappropriate land uses, population growth, over-exploitation of natural assets and environmental degradation are complex and long-term. They are exacerbated by their linkage with poverty, inequality and social conflicts.

Land use restriction often serve valuable social purposes. It can protect landowners from expropriation of value, reduce macroeconomic risks from natural disasters, enhance the environment and manage growth of cities in a way that reduces costs to society [OECD 2008].

GENERAL REGULATIONS IN LAW – LAND CODE

Special regulations of land use limit different kinds of economic (or) legal activity on the territory of the zones of land use special regulations in order to secure rights of landowners and protect population from harmful impact of the industry and other objects having special regulations of production activity. The special regulations of land use are determined by the system of land use restrictions.

According to the Land Code of Ukraine the following zones of protected areas are defined [2001]:

- **Protected zones** – they shall be established:
 - a) around especially valuable natural objects, historical and cultural heritage sites, hydrometeorological stations etc. in order to preserve and protect them from harmful anthropogenic influences;
 - b) along communications lines, electrical transmission lines, transportation lands, around industrial facilities, to ensure the proper conditions for their operation and to avoid their possible damage as well as to decrease their harmful effects on human beings and environment, adjoining lands and other natural objects.
- **Zones of sanitary protection.** Sanitary protection zones are established around areas where underground or open water sources, water intake facilities and water-purification equipment, water pipes or health-improvement and other facilities are located in order to ensure their sanitary and epidemiological protection.

Within the boundaries of protected zones it shall be prohibited to carry out activities that can damage underground and open sources of water supply, water collection and water purification facilities, water pipelines and health improving facilities around which protected zones have been created.

- **Sanitary-defence zones.** Sanitary-defence zones are created around objects and facilities that are sources of harmful or hazardous substances, odours, excessive levels of noise, vibration, ultrasound and electromagnetic waves, electronic fields, ionizing radiation etc. with the purpose to separate such objects/facilities from residential buildings.

Within the boundaries of sanitary-defence zones it shall be prohibited to build residential houses, social infrastructure objects, and other facilities related to permanent human habitation.

- **Special land-use regime zones.** Special land-use regime zones shall be established around military facilities of the Armed Forces of Ukraine and other military formations created in accordance with Ukrainian legislation, to ensure the functioning/operation of these objects, to ensure the safekeeping of arms, military equipment and other military property, protection of state boarders, as well as to protect the population, economic facilities and the environment from the effects of emergency situations that could develop at these facilities as a result of accidents, natural disasters or fires.

Along the state borders of Ukraine there shall be established a near border/frontier strip with special land-use regime.

The above-mentioned zones are determined around the regulation-forming objects of natural or artificial origin in order to save their natural and obtained characteristics.

The Land Code also secures privileges for application of lands in agriculture to support rational utilization and protection of the lands.

With the aim of land protection Land Code establishes obligation towards land plot owners and land users to:

- use land in effective way and in accordance with its designation;
- comply with environment legislation;
- increase the fertility of soil and preserve other utile properties of land;
- observe the rules of good-neighbourhood and restrictions related to the establishment of servitudes and protected zones.

SPECIAL LAW REGULATION

The Land Protection Act

Important tools in establishment of restrictions are presented by standardization and norming of land use, suggesting security of ecological and sanitary-hygienic safety of citizens by means of determination of requirements as to land quality, soil fertility and admissible anthropogenic impact and economic development of lands [Дорош 2007].

According to Article 30 of the Law „On land protection” the following norms are adopted in the field of land protection and reproduction of soil fertility [Закон України 2003b]:

- allowable level of soil pollution,
- qualitative condition of soil,
- optimal correlation of land units,
- optimal correlation of crops in crop rotation in different natural and agricultural regions,
- indicators of degradation of land and soil.

Norms of allowable soil pollution are determined in order to set criteria for land suitability for its destined use.

The norms of allowable soil pollution include:

- allowable concentration of chemicals, remains of pesticides and agrochemicals, heavy metals etc. in soil;
- allowable level of soil pollution with radioactive substances.

Norms of qualitative soil condition are determined in order to prevent it from exhaustion and are used for control of soil quality.

Norms of qualitative soil condition determine degree of pollution, optimal content of nutrients, physical and chemical characteristics etc.

Norms of optimal correlation of land units are determined to prevent excessive anthropogenic impact on them including excessive ploughing up of agricultural units.

Norms of optimal correlation of land units include:

- optimal correlation of lands of agricultural, natural and reserve and other nature protective, curative, historic and cultural, recreational destination, as well as forest and water funds;
- optimal correlation of arable land and perennial plants, haymaking, pastures as well as land with field protective forest belts in agrolandscapes.

Norms of optimal correlation of crops in crop rotation in different natural and agricultural regions are determined to achieve high and constant yield and prevent exhaustion and loss of soil fertility as a result of soil weariness [Постанова 2010].

Norms of optimal correlation of crops in crop rotation determine structure of cropping areas for different natural and agricultural regions and list of accepted crops for being cultivated in those regions (Tab. 1).

Indicators of norms of land degradation are determined for each category of land in order to prevent deterioration of its condition and are used for controlling of land use and protection.

The indicators of land degradation include indicators of allowable deterioration of condition and characteristics of land resources resulting from anthropogenic impact and negative natural phenomena as well as norms of intensity of agricultural land utilization.

Law „On natural protected fund”

In accordance with the Ukrainian legislation natural protected fund includes natural preserves, biosphere preserves, national natural parks, regional landscape parks, natural reserves, natural monuments, wildlife areas, botanic gardens, dendrological parks, zoological parks, parks-monuments of gardening and parking art.

According to the Article 39 of the Law of Ukraine „On natural protected fund” protected areas are established to provide necessary regulations of protection of natural complexes and objects of natural preserves, prevent negative impact of economic activity on adjacent territories. Size of the area under protection is determined according to their destination basing on special observation of landscapes and economic activity on the adjacent territories [Закон України 1992].

On the areas under protection it is forbidden to build industrial and other objects, to hunt, to develop economic activity that can cause negative influence on the territory and objects of natural protected fund.

Law „On protection of cultural heritage”

To protect traditional character of the environment of certain monuments, their complexes (ensembles), historic and cultural preserves, historic and cultural protected territories they should be surrounded by zones of monuments protection: protected zones,

Table 1. Norms of optimal correlation of crops in crop rotation in different natural and agricultural regions
 Tabela 1. Normy optymalnej korelacji upraw w płodozmiianie w różnych przyrodniczo-rolniczych regionach

Natural and agricultural economic region Przyrodniczo-rolniczy region gospodarczy	Structure of cropping areas, % Struktura obszarów uprawnych, %						
	cereals and leguminous plants zboża i rośliny strączkowe	industrial crops rośliny przemysłowe	potato, vegetable and melon crops ziemniaki, warzywa i uprawy melonowe	fodder crops rośliny paszowe	clean-up time (fallow) czas oczyszczenia (odfóg)	rape rzepak	sunflower słonecznik
Polissia Polesie	35-80	3-25	0,5-4	0,5	8-25	20-60	5-20
Forest-steppe Lasostep	25-95	5-30	3-5	5-9	3-5	10-75	10-50
North-steppe Step północny	45-80	10-30	10	10	up to 20	10-60	10-16
South-steppe Step południowy	40-82	5-35	5-10	12-15	up to 20	up to 60	up to 25
Precarpathian Przedkarpaccy	25-60	5-10	5-7	8-20	8-20	25-60	10-40

zones of regulation of building, zones of protected landscape, zones of protection of archaeological cultural layer [Закон України 2000a].

Town-building, architectural and landscape transformations, constructive, ameliorative, road construction, land works, mass demonstrations and performances are carried:

- within the boundaries of historic and cultural preserve – agreed with authority managing the historic and cultural preserve;
- within the boundaries of historic and cultural protected territory – agreed with the central executive authority fulfilling state policy in the sphere of cultural heritage protection, basing on the conclusion of the authority being responsible for support of the regulations of historic and cultural protected territory.

The health resorts Act

The aim of the sanitary protection of health resorts is to save natural characteristics of the existing curative resources, prevention of pollution, destruction and premature exhaustion of the resources.

To fulfil the tasks there is set an area of sanitary protection within the boundaries of health resort. Within the territory, it is prohibited to do any work causing pollution of soil, air, water, harming forests, other green vegetation, forcing development of erosion processes and negatively influencing natural curative resources, sanitary and ecological conditions of natural territories of health resorts [Закон України 2000b].

The area of sanitary protection is divided into three zones:

- first zone (zone of severe regulations);
- second zone (zone of restrictions);
- third zone (zone of observation).

REGULATIONS GIVEN BY SPATIAL LAND USE PLANNING

Land use zoning

Legislator has provided natural and agricultural, ecological and economic, antierosion and other kinds of zoning for rational land utilization. They include:

- division of land by destination taking into account natural conditions, agrobiological requirements of agricultural crops, development of activity and priority of ecological safety requirements;
- determination of requirements as to rational land use according to a zone;
- distinction of areas requiring special protection from influence of human activity;
- establishment of necessary ecological limitation of land or soil use taking into account their geomorphologic, natural and climatic, soil, antierosion and other peculiarities according to an ecological zone [Закон України 2003a].

Zoning of land is carried out taking into account natural conditions, agrobiological peculiarities of agricultural crops, directions of economic development and requirements of ecological safety by means of examination of land and soil condition, collection, analysis, systematization and generalization of data characterizing condition and peculiarities

of protection and use of land by separate regions (zones, provinces, districts) or administrative and territorial units, as well as other measures.

According to the results of zoning measures of land one can work out schemes (maps) demonstrating the following data:

- **natural and agricultural** – structure of land (including agricultural one), soil, its qualitative condition, presence of valuable as well as degraded and not very productive soil, classification indicators of lands usefulness for agricultural crops growing etc.; one should also take into consideration degree of heat and moisture supply of the area, hydrothermal coefficient, amount of active temperatures of 10° above zero, composition and characteristics of soil (specific weight of eroded, hydromorphic, salty, marshy soil etc.) and degree of their draining;
- **ecological and economic** – degree of transformation of the environment caused by human activity, level of natural resources attraction, characteristics of natural and resource potential, environment resistance to the influence of human activity, degree of the impact, unfavourable natural and anthropogenic processes, ecological and economic estimation of the area; it is very important to take into account the degree of transformation of the environment, its resistance to anthropogenic impact and the degree of the area deterioration by negative geological processes;
- **antierosion** – condition of soil erosion, intensity of erosion processes, their dynamics, natural and anthropogenic preconditions of erosion development; basing on such schemes (maps) one can forecast erosion processes in order to apply antierosion measures;
- **ecological** – soil pollution with pesticides, heavy metals, radionuclide etc.

Land development regulation

Land surveying plans of ecological and economic optimization of land use and protection, improvement of correlation and location of agricultural land, system of crop rotation, haymaking and pasture rotation [Kuryltsiv 2007].

The Article 52 of the Law of Ukraine „On land surveying” determines that projects of land structure, providing ecological and economic grounding of crop rotation and arrangement of land areas, are developed to organize agricultural production and arrangement of agricultural land areas within the boundaries of land properties for efficient agricultural production, rational utilization and protection of lands as well as establishment of ecological environment and improvement of natural landscapes.

The projects of land development providing ecological and economic foundation of crop rotation and arrangement of land areas, determine:

- a) location of production buildings and constructions;
- b) organization of land properties with determination of crop rotation, basing on ecological and economic conditions and establishment of engineering and social infrastructure;
- c) distinction of types and kinds of crop rotation with consideration of agricultural production specialization;
- d) composition of schemes of change of agricultural crops in crop rotation;
- e) projecting of crop rotation fields;

- f) development of a plan of transition to make crop rotation adequate;
- g) application in nature (on location) the projected fields of crop rotation.

Only those owners and users who use agricultural land plots for commodity agricultural production and have area more than 100 hectare should develop such projects.

CONCLUSIONS

Nowadays in Ukraine there is a great threat of losing valuable lands and need to save natural-resources and ecological potential of territories. The described conditions are largely caused by non-market system of land relations and methods of their regulation.

Unfortunately, economic methods of land use administration allowing to protect ecological potential of territories along with utilization of lands have not been applied on a large scale and are even stopped because of lack of financing of land protective programs at state and regional level.

During the fulfillment of land reforms and the transition of large land areas from state ownership into private ownership of citizens and juridical persons there is an urgent need to increase the degree of state participation in the measures of lands protection and effective control over lands utilization and protection.

Thus, the further development of market relations in Ukraine forces the establishment of state land use administration system along with a set of legal, economic and ecological norms and rules regulating utilization of lands and also presupposing responsibility for breaking land legislation.

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